

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1323

Introduced by Assembly Member Negrete McLeod

February 23, 2001

An act to amend Sections 357, 359, 360, 423, 506, 508, 509, 510, and 531 of, and to repeal Section 507 of, the Family Code, and to amend Section 360 of the Penal Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1323, as amended, Negrete McLeod. Marriage licenses.

Existing law requires a person solemnizing a marriage to return the certificate of registry to the county recorder within 30 days after the ceremony.

This bill would instead require the person solemnizing a marriage to return the certificate within 10 days after the ceremony.

Existing law provides for so-called “confidential marriage,” whereby an unmarried man and an unmarried woman who have been living together may be married. A confidential marriage certificate attesting to the performance of the marriage is filed with the county clerk but is not open to public inspection except upon court order. Existing law further requires that the person solemnizing ~~such~~ a *confidential* marriage provide the parties who were married with an application to obtain a certified copy of the confidential marriage certificate from the county clerk; the application must be filled out by the parties who were married and sent by the person solemnizing the marriage to the county clerk.

This bill would delete the provision requiring the person solemnizing a confidential marriage to provide the parties who were married with a copy of the confidential marriage certificate. The bill would revise the last described provision to instead require that upon completion of the confidential marriage certificate the parties who were married shall be provided with an application to obtain a certified copy of the confidential marriage certificate from the county clerk.

Existing law permits the county clerk to issue a duplicate certificate of registry of marriage if the original is lost or destroyed before it is returned to the county recorder. Existing law further requires the person solemnizing the marriage to return the duplicate certificate to the county recorder within 30 days after issuance. Existing law similarly authorizes the issuance of a replacement confidential marriage certificate.

This bill would instead require ~~such a~~ *the* duplicate certificate to be returned within 10 days after issuance.

Existing law authorizes the county clerk to approve notary publics to authorize confidential marriages.

This bill would expressly provide that the county clerk has discretion as to whether to approve notary publics to authorize confidential marriages.

Existing law makes it a misdemeanor for a person who solemnizes a marriage to fail to return the marriage license and certificate to the county recorder or county clerk.

This bill would delete that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 357 of the Family Code is amended to
2 read:

3 357. (a) The county clerk shall number each marriage license
4 issued and shall transmit at periodic intervals to the county
5 recorder a list or copies of the licenses issued.

6 (b) Not later than 60 days after the date of issuance, the county
7 recorder shall notify licenseholders whose certificate of registry
8 has not been returned of that fact and that the marriage license will
9 automatically expire on the date shown on its face.



1 (c) The county recorder shall notify the licenseholders of the
2 obligation of the person solemnizing their marriage to return the
3 certificate of registry and endorsed license to the recorder's office
4 within 10 days after the ceremony.

5 SEC. 2. Section 359 of the Family Code is amended to read:

6 359. (a) Applicants for a marriage license shall obtain from
7 the county clerk issuing the license, a certificate of registry of
8 marriage.

9 (b) The contents of the certificate of registry are as provided in
10 Part 1 (commencing with Section 102100) of Division 102 of the
11 Health and Safety Code.

12 (c) The certificate of registry shall be filled out by the
13 applicants, in the presence of the county clerk issuing the marriage
14 license, and shall be presented to the person solemnizing the
15 marriage.

16 (d) The person solemnizing the marriage shall complete the
17 certificate of registry and shall cause to be entered on the
18 certificate of registry the signature and address of one witness to
19 the marriage ceremony.

20 (e) The certificate of registry shall be returned by the person
21 solemnizing the marriage to the county recorder of the county in
22 which the license was issued within 10 days after the ceremony.

23 (f) As used in this division, "returned" means presented to the
24 appropriate person in person, or postmarked, before the expiration
25 of the specified time period.

26 SEC. 3. Section 360 of the Family Code is amended to read:

27 360. (a) If a certificate of registry of marriage is lost or
28 destroyed after the marriage ceremony but before it is returned to
29 the county recorder, the person solemnizing the marriage, in order
30 to comply with Section 359, shall obtain a duplicate certificate of
31 registry by filing an affidavit setting forth the facts with the county
32 clerk of the county in which the license was issued.

33 (b) The duplicate certificate of registry may not be issued later
34 than one year after issuance of the original license and shall be
35 returned by the person solemnizing the marriage to the county
36 recorder within 10 days after issuance.

37 (c) The fee for issuing the duplicate marriage license and
38 certificate of registry is five dollars (\$5).

39 SEC. 4. *Section 423 of the Family Code is amended to read:*

1 423. The person solemnizing the marriage shall return the
2 marriage license, endorsed as required in Section 422, to the
3 county recorder of the county in which the license was issued
4 within ~~30~~ 10 days after the ceremony.

5 *SEC. 5. Section 506 of the Family Code is amended to read:*

6 506. (a) The confidential marriage license shall be presented
7 to the person solemnizing the marriage.

8 (b) Upon performance of the ceremony, the confidential
9 marriage certificate shall be filled out by the parties to the marriage
10 and authenticated by the person solemnizing the marriage.

11 (c) The certificate shall be returned by the person solemnizing
12 the marriage to the office of the county clerk in the county in which
13 the license was issued within ~~30~~ 10 days after the ceremony.

14 *SEC. 6. Section 507 of the Family Code is repealed.*

15 ~~*SEC. 5.*~~

16 *SEC. 7. Section 508 of the Family Code is amended to read:*

17 508. Upon issuance of a confidential marriage certificate,
18 parties shall be provided with an application to obtain a certified
19 copy of the confidential marriage certificate from the county clerk.

20 ~~*SEC. 6.*~~

21 *SEC. 8. Section 509 of the Family Code is amended to read:*

22 509. (a) A party to a confidential marriage may obtain a
23 certified copy of the confidential marriage certificate from the
24 county clerk of the county in which the certificate is filed in any
25 of the following ways:

26 (1) By submitting the application for a certified copy of the
27 confidential marriage certificate provided to the parties pursuant
28 to Section 508.

29 (2) By personally appearing before a notary public or at the
30 county clerk's office in the party's county of residence, producing
31 proper identification, obtaining a certificate attesting to the party's
32 identity from the notary public or county clerk, and transmitting
33 that certificate, together with a request for the certified copy of the
34 confidential marriage certificate, to the county clerk of the county
35 with which the certificate is filed.

36 (3) By personally appearing at the county clerk's office where
37 the certificate is filed and producing proper identification.

38 (b) Copies of a confidential marriage certificate may be issued
39 to the parties to the marriage upon the payment of a fee equivalent
40 to that charged for copies of a certificate of marriage.

~~SEC. 7.~~

SEC. 9. Section 510 of the Family Code is amended to read:

510. (a) If a confidential marriage certificate is lost, damaged, or destroyed after the performance of the marriage and before it is returned, the county clerk may issue a replacement upon the payment of a fee of five dollars (\$5).

(b) The duplicate license may not be issued later than one year after issuance of the original license and shall be returned by the person solemnizing the marriage to the county clerk within 10 days after issuance.

~~SEC. 8.~~

SEC. 10. Section 531 of the Family Code is amended to read:

531. (a) An application for approval to authorize confidential marriages pursuant to this part shall be submitted to the county clerk in the county in which the notary public who is applying for the approval resides. The county clerk has discretion as to whether to accept applications or grant authorizations based on whether sufficient need exists for notary publics to authorize confidential marriages within the county.

(b) The application shall include all of the following:

(1) The full name of the applicant.

(2) The date of birth of the applicant.

(3) The applicant's current residential address and telephone number.

(4) The address and telephone number of the place where the applicant will issue authorizations for the performance of a marriage.

(5) The full name of the applicant's employer if the applicant is employed by another person.

(6) Whether or not the applicant has engaged in any of the acts specified in Section 8214.1 of the Government Code.

(c) The application shall be accompanied by the fee provided for in Section 536.

~~SEC. 9.~~

SEC. 11. Section 360 of the Penal Code is amended to read:

360. Every person authorized to solemnize any marriage, who solemnizes a marriage without first being presented with the marriage license, as required by Section 421 of the Family Code; or who solemnizes a marriage pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code without the

- 1 authorization required by that part; or who willfully makes a false
- 2 return of any marriage or pretended marriage to the recorder or
- 3 clerk and every person who willfully makes a false record of any
- 4 marriage return, is guilty of a misdemeanor.

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